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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,451	02/10/2004	Emad El Haje	644/37423	1690

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Washington, DC 20006

EXAMINER

BUMGARNER, MELBA N

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/774,451	<b>Applicant(s)</b> HAJE, EMAD EL	
	<b>Examiner</b> Melba Bumgarner	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-3, and 13 are objected to because of the following informalities: correct "of the" in claim 1, recitation of "the cross-sectional area" lacks sufficient antecedent basis in claims 2 and 3, correct "as" in claim 13. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 22 is not dependent upon a method claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 13, 15, 16, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Robertson (3,238,620). Robertson discloses a gum packing assisting tool comprising an endless strand of material 6 of flexible dense material which stretches and contracts, the length of the strand is less than the circumference of tooth and the strand tool has portions of its cross-section to be of circular configuration. The cross-sectional area of the tool throughout its length is substantially constant. The tool has a medicinal coating (column 3 line 1). Robertson discloses

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a method of packing soft tissue gum around a tooth (column 2 line 60). Robertson shows tools of at least one of different length, different thicknesses, and different shapes (column 2 line 48).

6. Claims 1, 3-5, 7-9, 11, 12, 15, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Brosius (5,829,974). Brosius discloses a dental tool 20 comprising an endless strand of material 22 of flexible dense material which stretches and contracts, the length of the strand is less than the circumference of tooth and the strand tool has portions of its cross-section to be of circular configuration. Patentable weight is not given to the intended use of the tool. The cross-sectional area of the tool varies along its length. The cross-sectional area of the tool has at least two widened portions, the ends of which are spaced from each by an equal distance. A portion of the tool has two projecting tabs equally spaced from one another. Brosius shows tools of different sizes (column 3 line 49).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson in view of Brosius (5,829,974). Robertson discloses a tool that shows the limitations as described above; however, Robertson does not show the cross-sectional area of the tool varying along its length. Brosius teaches a tool with an endless strand of material having the cross-sectional area of the tool varying along its length. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tool of Robertson to have the cross-

sectional area of Brosius in order to be able to facilitate installation of the tool in view of Brosius.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson in view of Mahoney et al. (5,976,439). Robertson discloses a tool that shows the limitations as described above; however, Robertson does not show the tool being biodegradable. Mahoney et al. teach a gum packing assisting tool being biodegradable (column 5 line 22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tool of Robertson to be biodegradable as in Mahoney et al. in order to use a tool that is biocompatible and easier to use by eliminating steps in view of Mahoney et al.

10. Claim 22 is rejected as understood, under 35 U.S.C. 103(a) as being unpatentable over Robertson. Robertson discloses a method that shows the limitations as described above; however, Robertson does not show moving the tool in any particular fashion. It would have been an obvious matter of choice to one of ordinary skill in the art as to the movement along the tooth with the tool as disclosed by Roberson.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goodson (4,764,377) is cited to show the state of the art with respect to a gum packing assisting tool.

12. Any inquiry concerning this communication from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Melba Bumgarner". The signature is fluid and cursive, with the first name "Melba" and last name "Bumgarner" clearly distinguishable.

Melba Bumgarner  
Primary Examiner